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**Testimony in Opposition of HB 5193, An Act Concerning Health Insurance
Coverage for Gender Reassignment Surgery
February 24, 2015**

Good afternoon Senator Crisco, Representative Megna, and distinguished members of the Insurance and Real Estate Committee. My name is David McGuire. I am the staff attorney of the American Civil Liberties Union of Connecticut (ACLU-CT) and I'm here to testify in opposition to HB 5193.

In 2011, Connecticut joined the ranks of a growing number of states who have added 'gender identity and expression' to their anti-discrimination statutes when it passed HB 6599.¹ In passing that bill, Connecticut made a commitment to equality. HB 5193, if passed, will undermine that commitment and threaten equality.

Connecticut mandates that health insurance cover many conditions.² Expressly forbidding treatments related to the needs of our transgender citizens from coverage requirements is discriminatory in violation of Connecticut's anti-discrimination laws. Additionally, discrimination on the basis of transgender status is discrimination on the basis of sex³ and, therefore, this bill also runs afoul of Article V of the Connecticut Constitution. HB 5193 is facially discriminatory and unlawful under the anti-discrimination statutes and it is unconstitutional under Connecticut's Equal Protection Clause.

Other states have been sued and lost litigation over laws that banned hormone therapy and reassignment surgery. In *Fields v Smith*, the United States Court of Appeals for the Seventh Circuit

¹ HB 6599 added Gender Identity or Expression to Conn. Gen. Stat. §§46a-51, 4a-60, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-70 to 46a-78, inclusive.

² Kaminski Leduc, Janet. *OLR Backgrounder: State-Mandated Health Insurance Benefits*, 2-6. (May, 2014). Available at <http://www.cga.ct.gov/2014/rpt/pdf/2014-R-0143.pdf>

³ The Connecticut Commission on Human Rights and Opportunities (CHRO) has found that that transgender people are protected under the 'sex' discrimination laws, as noted by the legislation in passing HB 6599.

OLR Bill Analysis of HB 6599, available at <http://www.cga.ct.gov/2011/BA/2011HB-06599-R010838-BA.htm>.

struck down a law that deprived transgender inmates of the hormone treatments they required.⁴ The court held that the law unconstitutionally inflicted pain and suffering on inmates. In finding it unconstitutional, the court likened hormone therapy to other types of treatments regularly provided by the Department of Corrections in the state, such as medicines to treat mental health, various surgeries, and cancer;⁵ treatments that in Connecticut are required to be covered by health insurance plans.⁶ The court recognized that withholding hormone treatment, much like withholding any of these other treatments, would cause extreme pain and suffering with no benefit. HB 5193 would, if passed, similarly cause harm without benefit. For these reasons, we urge you to oppose this bill.

⁴ Fields v. Smith, 653 F.3d 550 (7th Cir. Wis. 2011)

⁵ *Id* at 555.

⁶ Insurance must cover some psychotropic drugs, some therapies, cancer treatments and screenings and certain surgeries.

Kaminski Leduc, *supra*.